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HUMAN RIGHTS COMMITTEE

Sixty-third session

SUMMARY RECORD OF THE 1681st MEETING

Held at the Palais des Nations, Geneva,
on Monday, 20 July 1998, at 10 a.m.

Chairperson: Ms. CHANET

later: Mr. EL SHAFEI
(Vice-Chairperson)

later: Ms. CHANET
(Chairperson)

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The meeting was called to order at 10.05 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Second periodic report of Algeria (CCPR/C/101/Add.1; CCPR/C/63/Q/ALG/1/Rev.1)

1. At the invitation of the Chairperson, Mr. Dembri, Mr. Abba, Mr. Hassaine, Mr. Zerrouki, Miss Akeb, Mr. Hamed Abdelwahab, Mrs. Bouabdellah, Mrs. Zerrouki, Miss Chaieb, Mr. Almas, Mr. Soualem, Mr. Hellab and Mrs. Karadja (Algeria) took places at the Committee table.

2. The CHAIRPERSON invited the head of the Algerian delegation to introduce his country's report.

3. Mr. DEMBRI (Algeria) said that the report currently before the Committee (CCPR/C/101/Add.1) was the fourth periodic report submitted by Algeria in less than two years to United Nations human rights treaty monitoring bodies, thus demonstrating its willingness to continue its cooperation and enhance its dialogue with those bodies. Although the report had been due in 1995, his Government had deferred its submission in the interests of covering more fully the political and democratic restructuring that was in progress.

4. It would be recalled that, when the initial report had been submitted in 1992, his country had already begun the transition towards political pluralism and a market economy required by the wide range of aspirations of the Algerian people. With the adoption of a new Constitution by referendum on 23 February 1989, political pluralism, and universal suffrage and a balance of powers had been selected in a clear expression of the will of the people. That choice had immediately been confronted with the criminal acts of subversive groups determined to impose on society an authoritarian and totalitarian method of governance. The terrorist attacks on the new institutional structure had led the authorities, in January 1992, to interrupt, not the democratic process as was too often wrongly asserted, but the electoral process.

5. Since then, the barbarism of the terrorists groups, though it had spared no social stratum, had in no way altered the determination of the Algerian people and authorities to continue working to establish a State subject to the rule of law and to consolidate pluralist democracy. It was with that in mind that, in 1994, the President had undertaken to renovate the country's political institutions and to restore the electoral process, resulting in presidential and other elections, constitutional reform, and the establishment of mediation machinery.

6. The dialogue begun by those measures still prevailed and remained open to all those who rejected violence and were committed to respecting the Constitution and laws of the Republic and to sustaining the pluralist, democratic and republican political model. Algeria thus possessed legitimate republican institutions within which the public authorities and the politicians were working to strengthen and enrich the values of multi-party democracy.

7. In order to preserve and strengthen what had been achieved, Algeria had established the National Human Rights Observatory (ONDH) as an independent institution and had appointed an Ombudsman of the Republic, a system which was making a tangible contribution to rectifying the abuses of central bureaucracy. Moreover, the vitality and blossoming of civil society in thousands of non-governmental organizations (NGOs) attested to the strength of the collective effort to promote and protect human rights. Freedom of expression and opinion within the independent press had won it many international prizes and distinctions.

8. The public authorities had ensured the adoption of a clemency law and had elaborated measures for the social rehabilitation of persons who, without having committed bloodshed, had found themselves involved in terrorist acts. Measures had also been adopted and programmes launched for the material and psychological care of victims of terrorism and their families and for the reconstruction of infrastructures damaged by terrorist attacks.

9. Algeria had received a delegation from the European "troika", representatives of numerous foreign parliaments, including the European Parliament, and more than a thousand journalists from all parts of the world. They had been able to see that, although the Algerian people was the victim of terrorist groups, it had not renounced its decision in favour of pluralist democracy and human rights. Algeria was soon to welcome a panel of eminent persons, selected by the Secretary-General, for a fact-finding visit designed to enable the international community to understand the real situation in Algeria.

10. Algeria's exemplary fight against terrorism and the price paid by its people to defend democracy and human rights called for the respect and consideration and the effective solidarity of the international community.

11. The CHAIRPERSON invited the delegation of Algeria to answer the questions contained in the final list of issues (CCPR/C/63/Q/ALG/1/Rev.1).

12. Mr. HAMED ABDELWAHAB (Algeria), replying to the questions in paragraph 1, subparagraphs (a) and (b), on extrajudicial killings, said that there was one case that was currently being investigated. While it could not be termed extrajudicial killing, because there had as yet been no court decision on what had actually happened, it did involve a suspicious death in custody. The person concerned, who had been accused of murdering the Secretary-General of the Union fédérale des travailleurs algériens, had been wounded in an exchange of fire with the security forces while resisting arrest. Following his arrest, his condition had deteriorated and he had succumbed to his wounds.

13. Mr. DEMBRI (Algeria) added that it was the emergence of terrorism, and not a political crisis of human rights, that had occasioned human rights violations. His Government, which had constantly urged that international law be amended to enable it to apply to individuals with no official ties to a Government, hoped that the recently established International Criminal Court would have the power to prosecute such individuals for mass violations of human rights.

14. Algeria had always responded openly to questions about extrajudicial killings, but there was no evidence that the phenomenon occurred with any frequency. The State complied with the responsibility incumbent upon it under the Constitution to protect persons and property, but the land area was large and the security apparatus relatively small. Hence the need to respond to terrorist attacks by tightening the security net nationwide.

15. Mr. HAMED ABDELWAHAB (Algeria), replying to the question in paragraph 1, subparagraph (c), said that the Government had investigated every reported instance of massacres of civilians. As the events at Rélizane, Benthala and Sidi Rais were the ones most often mentioned in the media, he would refer to them in answering the question.

16. An investigation had been instituted within a few days of the massacre of 30-31 December 1997 at Rélizane. As no individual suspects had been identified, the investigation had been general in nature. In the case of the killings at Benthala, investigations had been launched in respect of four individuals who had been brought before a court. Three of them had been held under a detention warrant while the fourth had initially been released, but the court of appeal had overturned that decision and had ordered the person to be taken into custody. A month later, warrants had been issued for the arrest of three more persons. The investigation was continuing. Investigations had commenced two days after the killings at Sidi Rais. Four suspects had been identified but, although arrest warrants had been issued, they remained at large.

17. Those three cases were illustrative of the procedure used in every reported instance of a massacre of civilians: investigations were systematically carried out.

18. Mr. HELLAB (Algeria) said that, when the terrorists had failed in their bid to take power, they had first of all begun to assassinate members of the security forces, followed by political figures and scientists and intellectuals. Having failed to intimidate Algerian society, they had taken terrorism to the highest degree of criminality by targeting isolated groups of the population.

19. The Sidi Rais massacre had occurred during the night: the terrorists had been attending a party and had drawn knives against those present and those in a neighbouring house. The police station was located at the opposite end of the town of 10,000 inhabitants. Women and children fleeing towards the station had prevented the police from opening fire on the assailants, who had mined their escape route to prevent pursuit. At Benthala, where there was no police station, the events had likewise occurred at night and the weapons used had also been knives. At Sidi Youssef, the massacre site was at a distance of five kilometres, through a forest, from the nearest police station.

20. There was no known case of non-assistance by the security forces to the population in the event of collective killings; in fact, in the interests of self-defence, population groups in remote areas had been issued with weapons by the security forces. Since 1992, efforts had been made to increase the number of police stations in rural areas, where the number of such establishments was relatively small.

21. Mrs. KARADJA (Algeria) said that, after a massacre, the psychological and physical traumas of the population had to be addressed and the danger of a mass exodus averted. Both governmental authorities and civil society had participated in measures to restore calm and a sense of community to the population concerned. It was important that the survivors be recognized as victims so that they would be free to grieve and helped to start the healing process. Steps were taken to enable orphaned children to be looked after by their extended families; including social assistance from the State and guardianship arrangements organized by NGOs.

22. Other measures were designed to give psychosocial support to families and provide compensation on an emergency basis, e.g. for the reconstruction of housing. They related to family reunification, local security and psychological care for children in school. Emergency action of a medical or social nature was taken wherever necessary.

23. Mr. ALMAS (Algeria) said, in reply to the question in paragraph 1, subparagraph (d), that rapid intervention by the authorities to compensate survivors and the families of the victims was guaranteed. The amount of compensation paid was based on the victim's previous income or, in the case of physical injury, on the degree of disablement. Material damage was compensated for in full. A total of 7.6 billion dinars had been allocated for the purpose since 1992.

24. In all, 38,900 cases had been processed, including about 18,000 cases of death, over 13,000 cases of material damage, 7,000 cases of physical injury and about 750 cases of kidnapping by terrorist groups. As the procedure for determining the amount of compensation to be paid naturally took some time, there were special programmes designed to tide the victims over, help them to rebuild their homes, provide holidays for their children, etc.

25. Miss CHAIEB (Algeria) said that victims of terrorist attacks were immediately taken to public hospitals, where they received free treatment from multidisciplinary teams of physicians, surgeons and psychologists. The activities of such teams were supervised by the Ministry of Health and the Ministry of National Solidarity. Algeria had a special arrangement with the Cantonal Hospital in Geneva, which undertook to take up to 130 wounded a year, priority being given to children, especially amputees. A similar arrangement with the ophthalmological department of the Lausanne Hospital was about to become effective.

26. Mr. DEMBRI (Algeria) said that NGOs making allegations of extrajudicial killings in Algeria were earnestly requested to provide documentary evidence so as to enable his Government to refute the allegations. All trials for terrorist activities were public and the right of defence was assured in all cases.

27. Mr. ABBA (Algeria), replying to the questions in paragraph 2, said that, at the beginning of the emergency, the Algerian security forces had been relatively unprepared to deal with a form of violence until then unknown in the country. In the first year, the police had suffered heavy losses simply because adequate precautions had not been taken. Since then, the security forces had been enlarged and their training improved.

28. While it was true that at first the terrorists had concentrated their attacks on specific groups of the population - journalists, intellectuals, ministers of religion (both Muslim and Christian) and politicians - their attacks had subsequently been directed indiscriminately against all sections of the population, principally in isolated hamlets and some quarters of the towns.

29. Individual members of target groups were taking precautions of their own, such as changing their addresses, vehicles or routes to work, etc. Experience had shown that the best way to resist the terrorists was to ignore and defy their threats while, at the same time, taking some simple precautions.

30. Miss AKEB (Algeria), replying to the questions relating to journalists in paragraph 2, said that many journalists had indeed been killed in 1993 and 1994, the number of killings sometimes reaching two a week. Since then, however, the Government had taken special steps to protect journalists by, inter alia, providing collective housing for about 600 of them in coastal areas. As a result, the number of killings had drastically diminished in 1995 and 1996 and had since dwindled to zero.

31. Mr. HAMED ABDELWAHAB (Algeria) said that all cases involving attempts on the lives of journalists were systematically investigated, as indeed were all cases of terrorism. To date, 60 cases of killings of journalists had come before the courts; judgements had been passed in 12 of those cases and the remainder were still under investigation. Some of the cases that had been tried had led to convictions, some had been dismissed and some had ended in acquittal.

32. By way of example, he cited the case of the killing of a well-known writer and journalist where one of the accused had been sentenced to death and others to various terms of imprisonment; appeals against those sentences were pending before the Supreme Court. Likewise, the killing of the Director-General of Algeria's State television had ended in a sentence of death and several prison sentences. That trial had, however, been held in absentia and no appeal had been lodged. Another appeal was pending before the Supreme Court in the case of the killing of a television journalist, where the trial had resulted in several prison sentences. In a case involving the death of a photographer employed by the National Press Agency, the accused had been acquitted and the Office of the Public Prosecutor had lodged an appeal which was currently before the Supreme Court.

33. The appeals mechanism operated normally in trials of persons accused of terrorist acts as it did in all other cases. Most of the death sentences had been pronounced in absentia. If a person who had been tried in absentia presented himself in court or was arrested, the sentence and the entire proceedings were automatically annulled and a new trial was held.

34. Mr. SOUALEM (Algeria), replying to the questions in paragraph 3, said that his Government had provided detailed answers to the 49 allegations of enforced disappearances addressed to it by the Working Group on Enforced or Involuntary Disappearances in 1997, as well as to the two allegations received from the Working Group in 1996. The Working Group had not formulated any

supplementary questions, evidently considering the Government's replies sufficiently clear. Some of the persons alleged to have disappeared had never left their homes; some were in prison; some had been killed while resisting the security forces; and some had gone underground and joined terrorist groups. While it was regrettable that the Working Group's machinery was being abused, his Government would continue to cooperate and to provide the Working Group with all available information.

35. Mr. HAMED ABDELWAHAB (Algeria), replying to the question in paragraph 4, said that there had been no deaths of persons in pre-trial detention. As for deaths in prison, an autopsy was always performed if the death was in any way suspicious and, if the suspicion was confirmed, the file was forwarded for investigation to the State Prosecutor's Office. With respect to paragraph 5, he said that the total number of death sentences imposed during the period under review was 1,991, 287 of them as a result of an adversary judgement and the rest by a contumacious or default judgement. No death sentences had been carried out since September 1993.

36. Mr. DEMBRI (Algeria) said that the decision to suspend the execution of death sentences had been taken on 13 October 1993.

37. Mr. ZERROUKI (Algeria) said that the state of emergency, initially introduced for a period of one year by Presidential Decree in 1992, had been extended indefinitely on 6 February 1993 because of the persistence of terrorist criminal activity. The decision to proclaim it was based on a provision of the Constitution. The state of emergency did not entail the abolition of citizens' rights in Algeria; five multi-party elections and some 15,000 political meetings had been held since its introduction, there were many public associations engaging in lively activities, the curfew had been lifted in several wilayas and a number of administrative detention centres had been closed down. The state of emergency would, of course, be lifted as soon as circumstances permitted.

38. In reply to the question as to why the Secretary-General of the United Nations had not been notified of the extension of the state of emergency, he said that, at the time the decision had been taken, Algeria had had no elected Parliament.

39. Mr. HAMED ABDELWAHAB (Algeria), replying to the question contained in paragraph 7, said that the Algerian system did not provide for compensation to persons who were acquitted or released. The only case in which compensation could be claimed was when a convicted person was declared innocent by the Supreme Court after a review of the trial. That rule applied to both general and special courts.

40. Both the Constitution and the Code of Criminal Procedure provided that pre-trial detention was an exceptional measure that in no way affected the presumption of innocence. The maximum duration of such detention, when ordered by the examining magistrate or the indictment division, was 20 days for a misdemeanour punishable by less than two years' imprisonment, four months, renewable for a further four-month period, in the case of an offence, and four months, renewable for two four-month periods, in the case

of a crime. Under exceptional circumstances, the examining magistrate could apply to the indictment division for a third four-month extension in criminal cases.

41. Administrative detention was a measure without criminal implications and persons affected by such measures could apply for release to the appeals councils set up by a ministerial order in 1992. The councils were composed of representatives of the authorities and of civil society. Persons in administrative detention could receive visits of lawyers and family members and enjoyed freedom of correspondence and freedom of religious practice. Following the closure of the custody centres, the vast majority had returned to their former workplaces. In some cases, employers had been ordered by the courts to reinstate former employees, with back pay for the period spent in custody.

42. Mr. ZERROUKI (Algeria), referring to paragraph 8 of the list of issues concerning legitimate defence groups, said that the scale of terrorist activity had prompted citizens themselves, especially in isolated areas, to seek authorization for the establishment of self-defence structures. The authorities' response had taken the form of an Executive Decree issued in 1997, which provided for the establishment of legitimate defence groups subject to prior authorization by the local prefect, who acted on the advice of the security services.

43. The groups were not allowed to take positive steps to neutralize terrorist forces and could act only in self-defence. Their members were volunteers and their leader was sometimes, but not always, a law-enforcement officer. They received no remuneration but the State occasionally offered assistance in needy cases. The local sub-prefect was responsible for supervising their activities, which were confined to a specific geographical area. Any member who failed to obey orders could be expelled from the group and, if necessary, prosecuted.

44. Mr. HELLAB (Algeria) said that legitimate defence groups had been established exclusively for the purpose of protecting lives and property, especially in remote villages. Their members did not receive special training since they did not form part of the security forces. The weapons they used were very simple, mostly hunting rifles that required no special permit apart from a declaration of ownership. The rules governing the groups' activities were the same as those governing personal self-defence. They were accountable to the State authority which had constituted them and not to any political party or social group. They were kept under constant supervision and there had been convictions for abuses.

45. Mr. HAMED ABDELWAHAB (Algeria) said that a total of 275 members of the security forces and of legitimate defence groups had been tried and convicted. The charges had ranged from murder and involuntary manslaughter to infliction of bodily harm, burglary, violence and assault, and destruction of property. The penalties had ranged from the death penalty and life imprisonment to short terms of imprisonment and suspended sentences. Most offenders belonged to the communal guard services and the legitimate defence groups. A smaller number

of offenders were members of the security services. All complaints of abuse of authority were systematically investigated. They generally consisted of allegations of ill-treatment, arbitrary detention and murder.

46. Mrs. ZERROUKI (Algeria), replying to the question in paragraph 9 of the list of issues, said that incommunicado detention did not exist in Algeria. Article 47 of the Constitution stipulated that nobody could be prosecuted, arrested or detained except as provided by law, and article 51 of the Code of Criminal Procedure concerning police custody required the judicial police to inform the Public Prosecutor of all detentions and to allow detainees to communicate with their families. Article 102 of the Code of Criminal Procedure concerning pre-trial detention allowed the examining magistrate, in the interests of confidentiality of the investigation, to prohibit communications, except with defence counsel, for a maximum of 10 days.

47. Mr. HAMED ABDELWAHAB (Algeria), replying to the questions in paragraph 10 of the list of issues, said that torture was prohibited by article 110 of the Penal Code which stipulated that anybody who inflicted physical or mental suffering on a person in order to obtain a confession was punishable by imprisonment. No case of torture within the meaning of the Penal Code or of article 1 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment had been brought to the attention of the judicial authorities in Algeria. There had, however, been cases of abuse and ill-treatment. It was for the examining magistrate and the trial judge to decide whether the evidence available warranted prosecution of reported cases of ill-treatment.

48. Mr. EL SHAFEI said that, after considering Algeria's initial report in March 1992, the Committee had expressed concern at the suspension of the democratic process, the large number of detainees, lack of respect for due process, especially before military tribunals, the ill-treatment of detainees, restrictions on rights to freedom of opinion and expression, and insufficient respect for article 6 of the Covenant, which stipulated that States parties which had not abolished the death penalty should reserve it for the most serious crimes (CCPR/C/79/Add.1, para. 5).

49. In its second periodic report, Algeria had responded in detail, in paragraphs 28 to 78, to the questions raised by the Committee in connection with its initial report. It had clarified such issues as offences carrying the death penalty, respect for due legal process and restrictions imposed during the state of emergency and as a result of the suspension of parts of the Penal Code. However, the report failed to provide a clear picture of the sombre recent developments in Algeria which had called for firm action to prevent the situation from deteriorating.

50. He stressed that the members of the Committee were independent experts who did not represent their respective Governments. Their sole aim was to ensure compliance with the Covenant and to conduct a dialogue with the authorities of the State party.

51. It was quite normal that the Committee should ask the Algerian Government for a special report on the impact of recent events on the rights of citizens, particularly the right to life, the right not to be subjected to

torture, the right to security of person, the right to a fair and public trial and the right to freedom of expression. However, as Algeria's second periodic report was due, it was agreed that the two reports should be combined. The response by the Algerian authorities at such short notice was commendable.

52. He drew attention to the conclusions and recommendations of the Committee against Torture following its consideration of Algeria's second periodic report in November 1996 (A/52/44). The Committee had expressed concern at the rising incidence of torture since 1991, although it had virtually ceased between 1989 and 1991. It noted that, under Decree No. 92/44 of 9 February 1992, the Minister of the Interior or his nominee could order administrative placement in custody centres with no judicial supervision and that custody could be extended to 12 days. Moreover, torture was not properly defined under Algerian law.

53. Recent events in Algeria had led to many disappearances - at least 2,000 according to some reports - and the families concerned were usually unaware of the identity of the kidnappers and unable to establish whether their relatives were alive or dead. They had apparently been unable to obtain from the authorities any statement concerning the fate of the missing persons. Relatives who had attempted to submit petitions to representatives of the United Nations and the United Nations Educational, Scientific and Cultural Organization (UNESCO) in September 1997 had been prevented from doing so and some of them had been detained by the police. According to the delegation of Algeria, compensation had been paid to the families of those killed by terrorist acts. He asked for further details concerning those cases and concerning any progress made in the investigation of cases of missing persons.

54. Mr. KRETZMER said that the report contained a wide range of information concerning laws and legal instruments but very little about practical developments in recent years. Nobody would realize from the report that, according to some estimates, between 40,000 and 80,000 civilians had been killed in Algeria during the past five years and that there had been serious allegations of systematic torture, secret detention and disappearances. Official denials of such reports would be credible only if Algeria opened up its society to outside organizations, especially human rights bodies, so that they could furnish independent information. Unfortunately, restrictions had been placed on the entry of such organizations, especially during the last few years. The Committee also required detailed information from the authorities regarding the investigations of alleged human rights abuses.

55. The information given by the delegation in reply to the questions in paragraph 1, subparagraph (c), of the list of issues was insufficient. In the case of the massacre which had taken place in Sidi Rais on 28 August 1997, the delegation had stated that, when the terrorists began shooting, the crowds had fled towards the police station at the other end of town, thus blocking the road and preventing the police from reaching the scene. However, according to the Committee's information, there were army barracks very close to the site. Why had the army not been called in to surround the town in order to ensure that those responsible for the atrocities were unable to escape?

56. More importantly, he wished to know what type of investigation had been carried out after the incident, and by whom. From what had been stated, it

appeared that, in such cases, there was reliance on a judicial investigation to examine allegations against those identified as responsible. It would seem, however, that a much wider investigation was called for into the conduct of the security forces, in order to enable guidelines to be laid down for the future.

57. The delegation had stated that, in the case of the Benthala massacre, there was no police station in the town. However, there were five different outposts of the military and security forces in the vicinity and, according to witnesses, units with armoured vehicles had been stationed outside the village. There again he would like to know what kind of investigation had been carried out.

58. Lastly, in the case of the events in Sidi Youssef, the delegation had stated that the nearest police station was five kilometres away. There were, however, army barracks in the area and it had been alleged that the army had refused to act. Again, it was important to know what kind of investigation had been launched.

59. Regarding paragraph 1 (b) of the list of issues, the Committee had been told that there had been only one case of extrajudicial killing. He was somewhat surprised to hear that that case was still under judicial investigation and that the results had not yet been published. There were, however, other cases that had come to the Committee's knowledge.

60. In one such case, a young man of 17 years of age had been taken away from his school in Algiers by members of the security forces on 30 January 1996. Two weeks later, his father had found his body in the mortuary. The staff of the school had been visited by the security forces a few days before the young man's arrest and questioned about him. Had any investigation been carried out into the circumstances of his death?

61. In another case, an individual had been arrested on 3 June 1994, and no details had been supplied regarding his whereabouts despite inquiries by relatives and by NGOs. A peculiar feature of that case was that, in early 1996, the Algerian authorities had informed the United Nations Special Rapporteur on extrajudicial, summary and arbitrary executions that the man had been arrested by the security forces on charges of terrorism, and had been killed in July 1994 while trying to escape. It was most curious that no information regarding him had been released until 1996.

62. Turning to the issue of disappearances (paragraph 3), he noted that, in its annual report for 1996, the Algerian National Human Rights Observatory (ONDH) stated that the conditions of incommunicado detention laid down in the Constitution and in the Code of Penal Procedure should be strictly respected, and that it was time to put an end to the use of places of detention which were outside the control of the law. That implied that such places of detention did, in fact, exist.

63. In a further case, a doctor had been abducted when driving home from his hospital on 8 July 1997, and held for two weeks before being released. No explanation had ever been given for his detention.

64. Concerning the question of torture (paragraph 10), the information given by the delegation had related to investigations into specific allegations. He was more concerned with the question of whether torture was used in Algeria on a systematic basis. The Committee had been informed that 45 persons currently being treated in an institution for torture victims in Europe asserted that they had been subjected to torture in a variety of facilities in Algiers. He would like to know what system the Government had, not so much for investigating such allegations after the event, but rather for ensuring that investigation procedures in detention centres respected the rights of individuals under the Covenant and were in accordance with Algerian law.

65. Mr. ZAKHIA said that, as a general rule, when a State was threatened by armed uprisings, only monitoring by an independent and impartial authority could effectively prevent human rights violations. The Committee was thus interested in learning who was currently carrying out investigations into the massacres that had taken place in the country, and what sort of investigations they were. In the light of the gravity of the situation, and the public's confusion in the face of repeated human rights violations by members of the security forces, he wondered why the ONDH and the Ombudsman of the Republic, as well as NGOs, had not been invited to monitor the investigations, notably with regard to the behaviour of the security forces and of the authorities, in general. In addition, international human rights bodies ought to be allowed into the country to make their own inquiries: that would give greater credibility to the Government's efforts in the eyes of the world.

66. Mr. KLEIN said that, while the report gave answers to a number of the questions asked in 1992, he found it very disappointing that only a single page was devoted to rights under articles 6 and 7 of the Covenant. No one would deny that Algeria's population was currently the target of serious and inexcusable acts of terrorism. However, paragraph 102 of the report stated that, under a new definition, terrorism included acts designed "to hinder traffic or freedom of movement on the roads and fill public places with crowds", or "to hinder the functioning of public services". That definition seemed to him unduly broad, and he would welcome more details.

67. It was important to distinguish between a State party's duty to respect the provisions of the Covenant and its duty to protect its citizens from violations of their rights by external forces. Attention was drawn to that distinction in General Assembly resolution 52/131 of 12 December 1997, which Algeria had supported. He was particularly concerned by cases of enforced disappearance involving the police, the gendarmerie, or anti-terrorist forces. In view of the huge number of cases reported, he was not convinced by the explanations given by the delegation for the phenomenon. Not all cases had been seriously investigated: many families seeking information had received no answer, and had themselves been treated like criminals. The report of the Working Group on Enforced and Involuntary Disappearances, published in January 1998, stated that there was an increase in the number of disappearances in Algeria. He did not think it proper for the delegation to respond to that very serious problem in such a cavalier way. Did a relative of a disappeared person have the right to go to court and oblige the Government to indicate what steps had been taken to ascertain the person's whereabouts?

68. The Committee had been told that there was no human rights crisis in Algeria. If thousands of people were being killed by forces other than those of the State, the country was surely facing a very serious human rights crisis. Since Algeria had not succeeded in dealing with that crisis on its own, he wondered whether it would be prepared to avail itself of the advice and support of other States parties to the Covenant.

69. Mr. El Shafei, Vice-Chairperson, took the Chair.

70. Ms. MEDINA QUIROGA said she was surprised to note that, in respect of article 4 of the Covenant, the report said nothing about the consequences of the 1993 extension of the state of emergency. Nothing was said either with regard to the human rights implications of Decree No. 92-03, which had created special courts to try cases of terrorism where, for instance, the right of appeal was confined to matters arising from points of law. She fully endorsed what Mr. Klein had said regarding the new definition of terrorism, which seemed to her to violate the basic principles of criminal law.

71. She found it very difficult to accept the report's omissions in respect of article 6 of the Covenant, particularly in view of the many reports of massacres by armed groups, deaths in custody, and disappearances. She wished to know whether the role of the security forces stationed near the sites of the massacres had been investigated, and whether any lists of victims had been published.

72. The reports of enforced disappearances in Algeria were similar in all respects to those that had been received over the years from Latin American countries. The Working Group had been informed of 49 cases of disappearance in which no information had been offered to the families by the Algerian authorities and she would like to know how many of those cases had been investigated. Article 7 of the Covenant prohibited not only torture, but also cruel, inhuman or degrading treatment or punishment and she wondered why it had not been possible for international human rights bodies, including the International Committee of the Red Cross, to visit prisons.

73. It had been reported that civil militias, or legitimate defence groups, had confessed to being motivated by revenge in their activities and she would like to know what the Government intended to do to remedy that situation.

74. Ms. Chanet resumed the Chair.

75. Lord COLVILLE said that, while he commended the report on having responded to questions left unanswered from 1992, he joined in regretting the total lack of information about the legitimate defence groups. It was most alarming that members of a local community should be armed and given the freedom to use their arms in self-defence. Unless such groups had adequate professional leadership, there was a danger that they would run out of control. The Committee had been told that the groups were not trained: without training, how could they judge what constituted proportionate self-defence, or how far they could go in pursuing attackers? He would appreciate explanations from the delegation on how those problems would be dealt with.

76. He shared the views of earlier speakers with regard to the definition of terrorism set out in paragraph 102 of the report. Under that definition, any act whatsoever which, in the opinion of the prosecutor or the police, had been carried out with any of a wide range of different intentions would constitute terrorism. He considered that that formulation was so broad as to constitute an infringement of articles 9 and 14 of the Covenant.

77. While he noted with admiration Algeria's achievements in terms of, for instance, return to the electoral process and freedom to form political parties, the problem was that terrorists would not participate in that process because they refused to accept any part of the apparatus of the State. In the end there would have to be negotiations. Faced with the prospect of interminable threats to the right to life and other rights under the Covenant, he wondered whether the delegation could see any way forward to some kind of negotiated settlement with the terrorists.

The meeting rose at 1.05 p.m.